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**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

UNITED STATES OF AMERICA,

Plaintiff,

v.

JUAN ZUBIAS-GAMEZ,
a.k.a. "Juan Zabias-Gamez,"

Defendant.

Case No.: 2:20-mj-695-BNW

**Stipulation to Extend Deadlines to
Conduct Preliminary Hearing and
File Indictment (Fifth Request)**

IT IS HEREBY STIPULATED AND AGREED, by and between Nicholas A. Trutanich, United States Attorney, and Kimberly M. Frayn, Assistant United States Attorney, counsel for the United States of America, and, Abel M. Yanez, Esq., counsel for Defendant Juan Zubias-Gamez, that the Court continue the preliminary hearing currently scheduled in this case for January 11, 2021, at 8:30 a.m., (ECF No. 23), to on or after February 5, 2021. This request requires that the Court extend two deadlines: (1) that a preliminary hearing be conducted within 14 days of a detained defendant's initial appearance, *see* Fed. R. Crim. P. 5.1(c); and (2) that an information or indictment be filed within 30 days of a defendant's arrest, *see* 18 U.S.C. § 3161(b).

This stipulation is entered into for the following reasons:

1 1. The United States Attorney’s Office has developed an early disposition
2 program for immigration cases, authorized by the Attorney General pursuant to the
3 PROTECT ACT of 2003, Pub. L. 108-21.

4 2. The early disposition program for immigration cases is designed to: (1) reduce
5 the number of hearings required in order to dispose of a criminal case; (2) avoid having
6 more cases added to the court’s trial calendar, while still discharging the government’s duty
7 to prosecute federal crimes; (3) reduce the amount of time between complaint and
8 sentencing; and (4) avoid adding significant time to the grand jury calendar to seek
9 indictments in immigration cases, which in turn reduces court costs.

10 3. The government has made a plea offer in this case that requires defendant to
11 waive specific rights and hearings in exchange for “fast-track” downward departure under
12 USSG § 5K3.1. This offer will be withdrawn if it is not timely accepted before this matter is
13 indicted and before a preliminary hearing is held. Typically under the Fast Track, the initial
14 request is to continue the preliminary hearing for 90 days. However, the Court just recently
15 terminated FPD’s representation and appointed new counsel, Mr. Yanez, for the defendant,
16 on or about December 17, 2020. ECF No. 24. Mr. Yanez, Esq. and the defendant have
17 advised undersigned government counsel that they would like more time to consider
18 whether to accept the government’s Fast Track offer and they agree to move the preliminary
19 hearing out to on or after February 5, 2021.

20 4. Under Federal Rule of Criminal Procedure 5.1(c), the Court “must hold the
21 preliminary hearing within a reasonable time, but no later than 14 days after the initial
22 appearance if the defendant is in custody”

23 5. However, under Rule 5.1(d), “[w]ith the defendant’s consent and upon a
24 showing of good cause—taking into account the public interest in the prompt disposition of

1 criminal cases—a magistrate judge may extend the time limits in Rule 5.1(c) one or more
2 times”

3 6. Furthermore, under the Speedy Trial Act, 18 U.S.C. § 3161(b), “[a]ny
4 information or indictment charging an individual with the commission of an offense shall be
5 filed within thirty days from the date on which such individual was arrested or served with a
6 summons in connection with such charges.”

7 7. Defendant and new defense counsel need additional time to review the
8 discovery and investigate potential defenses to make an informed decision as to how to
9 proceed, including whether to accept the fast-track plea agreement.

10 8. Accordingly, the parties jointly request that the Court schedule the
11 preliminary hearing in this case to on or after February 5, 2021.

12 9. Defendant is in custody and agrees to the extension of the 14-day deadline
13 imposed by Rule 5.1(c) and waives any right to remedies under Rule 5.1(c) or 18 U.S.C.
14 § 3161(b), provided that the information or indictment is filed on or before the date ordered
15 pursuant to this stipulation.

16 10. The parties agree to the extension of that deadline.

17 11. This extension supports the public interest in the prompt disposition of
18 criminal cases by permitting defendant to consider entering into a plea agreement under the
19 United States Attorney’s Office’s fast-track program for § 1326 defendants.

20 12. Accordingly, the additional time requested by this stipulation is allowed
21 under Federal Rule of Criminal Procedure 5.1(d).

22 13. In addition, the parties stipulate and agree that the time between today and
23 the scheduled preliminary hearing is excluded in computing the time within which the
24 defendant must be indicted and the trial herein must commence pursuant to the Speedy

1 Trial Act, 18 U.S.C. § 3161(b) and (h)(7)(A), considering the factors under 18 U.S.C.
2 § 3161(h)(7)(B)(i) and (iv).

3 14. This is the fifth request for an extension of the deadlines by which to conduct
4 the preliminary hearing and to file an indictment.

5 DATED this 5th day of January, 2021.

6 Respectfully submitted,

7 NICHOLAS A. TRUTANICH
8 United States Attorney

9 /s/ Abel M. Yanez

10 Abel M. Yanez, Esq.
Counsel for Defendant
JUAN ZUMBIAS-GAMEZ

/s/ Kimberly M. Frayn

KIMBERLY M. FRAYN
Assistant United States Attorney

**UNITED STATES DISTRICT COURT
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UNITED STATES OF AMERICA,

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JUAN ZUBIAS-GAMEZ,
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Defendant.

Case No.: 2:20-mj-695-BNW

**[Proposed] Order on Stipulation to
Extend Deadlines to Conduct
Preliminary Hearing and
File Indictment**

Based on the stipulation of counsel, good cause appearing, and the best interest of justice being served; the time requested by this stipulation being excluded in computing the time within which the defendant must be indicted and the trial herein must commence pursuant to the Speedy Trial Act, 18 U.S.C. § 3161(b) and (h)(7)(A), and Federal Rule of Criminal Procedure 5.1, considering the factors under 18 U.S.C. § 3161(h)(7)(B)(i) and (iv):

IT IS THEREFORE ORDERED that the preliminary hearing currently scheduled on January 11, 2021, at the hour of 8:30 a.m., be vacated and continued to 2/9/2021 at 2:30 PM in LV courtroom 3B.

DATED this 5th day of January 2021.



HONORABEL BRENDA N. WEKSLER
UNITED STATES MAGISTRATE JUDGE